

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

MICHAEL LAVENDER,

Plaintiff,

v.

LESLIE PARK,

Defendants.

Case No. 3:15-cv-00216-MMD-VPC

ORDER ACCEPTING AND ADOPTING  
REPORT AND RECOMMENDATION  
OF MAGISTRATE JUDGE  
VALERIE P. COOKE

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (dkt. no. 6) ("R&R") relating to plaintiff's application to proceed *in forma pauperis* (dkt. no. 5) and *pro se* complaint (dkt. no. 1-1). Plaintiff had until August 14, 2015, to object to the R&R (dkt. no. 6). No objection to the R&R has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to

1 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,  
2 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the  
3 view that district courts are not required to review "any issue that is not the subject of an  
4 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then  
5 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.  
6 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to  
7 which no objection was filed).

8 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to  
9 determine whether to adopt Magistrate Judge Cook's R&R. Upon reviewing the R&R and  
10 the complaint, this Court finds good cause to accept and adopt the Magistrate Judge's  
11 R&R in full.

12 It is therefore ordered, adjudged and decreed that the Report and  
13 Recommendation of Magistrate Judge Valerie P. Cooke (dkt. no. 6) is accepted and  
14 adopted in its entirety.

15 It is further ordered that plaintiff's application to proceed *in form pauperis* (dkt. no.  
16 5) is granted. The Clerk is instructed to detach and file the complaint (dkt. no. 1-1).

17 It is further ordered that the complaint is dismissed without prejudice, without  
18 leave to amend.

19 The Clerk is directed to close this case.

20 DATED THIS 2<sup>nd</sup> day of October 2015.

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23 MIRANDA M. DU  
24 UNITED STATES DISTRICT JUDGE  
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